



The Task Force on Court Facilities  
455 Golden Gate Avenue, San Francisco, CA 94102-3660

**FINANCE AND IMPLEMENTATION COMMITTEE**

**Meeting report**

**Holiday Inn at the Bay Bridge, Emeryville**

October 18, 2000

<b>TASK FORCE ATTENDEES:</b>	<b>PRESENTERS:</b> Dr. Thomas Gardner, VITETTA
<b>COMMITTEE MEMBERS:</b>	<b>TASK FORCE STAFF:</b> Mr. Bob Lloyd Mr. Bob Emerson
<b>PRESENT:</b> Mr. David Janssen, Chair Mr. Greg Abel Mr. Fred Klass Hon. Charles Smith Hon. Diane Wick	<b>CONSULTANTS TO THE TASK FORCE:</b> Mr. Jay Smith, DMJM Ms. Kit Cole, VITETTA
<b>ABSENT:</b>	<b>GUESTS:</b> Mr. John Abbott, Orange County Counsel's office Mr. Tim Fedorchak, Stanislaus County CAO's office Mr. Bill Kelly, County of San Diego Ms. Catherine Knighten, Orange County Mr. Dave Kronberg, County of Sonoma GSA Mr. Bill Kunde, County of Yolo Mr. Rubin Lopez, CSAC Ms. Sally Lukenbill, Department of Finance Mr. Nick Marinovich, San Diego General Services Agency Mr. Jack Miller, San Diego General Services Agency Mr. Mark Nielsen, County of El Dorado Mr. Garry Raley, Riverside Superior Court Mr. Robert Sherman, Ventura Superior Court Mr. John Van Whervin, Los Angeles Superior Court Mr. Christopher Warner, San Bernardino Superior Court  <i>(Others may have been present but did not sign in)</i>

**Agenda**

1. Outstanding policy issues
  - a. Maintaining the flow of projects in the pipeline
  - b. Establishing the threshold for rejection of buildings by the state.
  - c. MOE elements
  - d. Report from Bob Lloyd regarding the "double count" issue
  - e. Consensus issues discussed on October 4 conference call
2. Discussion and review of Phase 5 draft report – focusing on policy issues and focusing on specific edits

### **Agenda Item #1a – Maintaining the flow of projects in the pipeline**

*Strikeouts and italics on all items represent changes made by the Committee and the Task Force at the Oakland meeting. This item was approved in concept by the Task Force on October 19.*

The Task Force believes that a program of financial incentives is an important step that will facilitate and encourage counties to continue the development of court facility projects during the period prior to the enactment of trial court facility legislation and extending from the effective date of such legislation until the transfer of responsibility for court facilities to the state. Therefore, the Task Force recommends urgency legislation be enacted to provide an incentive program, established in the form of *future* state reimbursement of county general fund expenditures for pre-approved projects, and subject to the enactment of trial court facilities legislation. The specifics of the task force's incentive plan are as follows:

1. The incentive program should be enacted as urgency legislation.
2. The incentive program ~~will~~ *shall* provide for state reimbursement of county general fund expenditures relating to pre-approved court facilities projects. *To be eligible for reimbursement, counties must obtain the prior written approval of proposed projects from the Judicial Council and the Department of Finance.*
3. The Judicial Council and the Department of Finance shall establish, *in a timely fashion*, written guidelines and procedural requirements for counties<sup>2</sup> requesting project reimbursement. The Judicial Council ~~will~~ shall review and prioritize all county requests and forward them to the Department of Finance for its review and final approval. Following written approval by the Judicial Council and the Department of Finance, counties ~~will~~ *shall* be reimbursed *in a timely manner* for court facility capital projects in accordance to the rules outlined above (previously #9).
4. All program reimbursement obligations shall be contingent upon the enactment of future legislation that provides for transfer of responsibility for court facilities to the state ~~or other state funding measures for court facilities~~. *If no legislation is enacted, no reimbursements shall be made. (Note: See Orange County staff proposal related to this item at the end of this packet)*
5. ~~To be eligible for reimbursement, counties must obtain the prior written approval of proposed projects from the Judicial Council and the Department of Finance.~~
6. Eligibility for project reimbursement shall extend from January 1, 2001 until the date of transfer of a county's court facilities to the state, ~~or enactment of other state funding measure for court facilities~~.
7. Eligible project costs shall only include ~~those~~ *the cost of* elements or phases funded by county general funds.
8. ~~In no event shall any costs or expenditures for a court facility project be reimbursed to the extent any county funds or properties that have been committed to that project prior to January 1, 2001 for a court facility project, or phase or element thereof. (Alternative language proposed by consultants: "Any county general funds expended or committed prior to January 1, 2001, for a court facility project, or any phase or element thereof, shall not be reimbursed.")~~ For these purposes, "committed" is defined as county *general fund* moneys allocated, approved, appropriated, or committed by resolution or ordinance of a county board of supervisors.
9. ~~The Judicial Council and the Department of Finance shall establish written guidelines and procedural requirements for counties' requesting project reimbursement. The Judicial Council will review and prioritize all county requests and forward them to the Department of Finance for its review and final approval. Following written approval by the Judicial Council and the Department of Finance, counties will be reimbursed for court facility capital projects in accordance to the rules outlined above.~~

### **Agenda Item #1b - Establishing the threshold for rejection of buildings by the state**

*Strikeouts and italics on all items represent changes made by the Committee and the Task Force at the Oakland meeting.*

In connection with its recommendation that *the* state shall ultimately be responsible for court facilities, the Task Force recommends that *responsibility* for all existing court facilities currently being used for

court functions be transferred to the state, except for facilities satisfying the criteria, *below* ~~for rejection as “unsuitable” as defined hereinafter.~~

The state may reject a court facility ~~as unsuitable only if an a significant imminent threat or reasonably imminent threat~~ to the life, health or safety of the public or persons occupying the facility exists, including seismically hazardous conditions comprising either an “imminent risk” (level VII), ~~or~~ “extensive but not imminent risk” (level VI), ~~or “substantial risk” (level V)\* or significant functional deficiencies, which in their totality are significant are present.~~ “Significant functional deficiencies” ~~shall be defined as those comprising a totality of conditions that render the facility unsuitable for continued short or long term use for its currently intended court functions, even for the short term.~~

A licensed structural engineer utilizing *the evaluation program* and criteria established by the Department of General Services Real Estate Services Division ~~will~~ *shall* evaluate any buildings built ~~after prior to~~ \_\_\_\_ (date), unless previously upgraded, for seismic risk. These seismic evaluations ~~will~~ *shall* be funded by the state and completed prior to ~~beginning completion of the negotiations between the Judicial Council and each county on the disposition of affected buildings.~~

*A county* ~~Counties~~ may appeal rejection of ~~an unsuitable~~ a building to the State Public Works Board. In the case of an appeal, the state shall have the burden of proof to justify the rejection of a court facility. If a facility is rejected, ~~the~~ a county shall be responsible *for providing necessary and suitable court facilities, as required by Government Code Section 68073 as that section read on July 1, 2000.* ~~for one of the following, at the state’s election:~~

- ~~1. Remedy the conditions that caused rejection, and, until such remedy is satisfactorily completed and the facility accepted, continue to be responsible for providing necessary and suitable court facilities as required by Government Code Section 68073 as that section read on July 1, 2000.~~
- ~~2. Furnish compensation, including planning and administrative costs, to the Judicial Council, equal to the cost of the remedy of such conditions as a condition of the transfer to the state.~~
- ~~3. If remedy is determined to be unfeasible and/or impractical, replace the unsuitable facility with an equal amount of suitable space and transfer the replacement space to the Judicial Council; or furnish compensation, including planning and administrative costs, to the Judicial Council equal to the replacement cost of an equal amount of suitable space.~~
- ~~4. Other suitable action by county accomplishing the same end and agreeable to the Judicial Council.~~

*\*Risk Acceptability Table, State Building Seismic Program, Report & Recommendations, Division of the State Architect, April 1994, page II-2. (Copy attached)*

## Agenda Item #1c - Elements that could be included in the MOE between the state and the counties

*Strikeouts and italics on all items represent changes made by the Committee and the Task Force at the Oakland meeting. This item was approved in concept by the Task Force on October 19.*

An MOE shall establish each county's annual financial obligation to the state with respect to court facilities. The MOE shall be determined by calculating the cost of facility maintenance items as outlined below. Items that have relatively stable costs are averaged over five years and adjusted to account for inflation to the date of transfer. Other costs such as lease payments are calculated differently to recognize the unique nature of the expenditure.

The "five year average" means the average, adjusted to account for inflation to the date of transfer, of the following fiscal years: 1995-1996, 1996-1997, 1997-1998, 1998-1999, and 1999-2000. Costs shall be based upon actual county expenditures for those items listed. Exclusions include land, buildings, capital expenditures, ~~major alterations~~ *betterment or remodeling (as defined by SAM)* that change the function of the building, ~~not maintenance~~, as well as parking provided in separate structures not dedicated solely to court use.

"Repair and maintenance projects" are included in the MOE and are defined in the SAM "as those projects that "continue the usability of a facility as its designed level of services." "Maintenance" includes any deferred maintenance. Any non-maintenance *project* (i.e., capital project), including betterment or alteration, as defined in the SAM, is not included in the MOE.

Lease payments ~~are~~ *shall be* included in the calculation of the MOE. The goal is to transfer resources that currently provide for a facility. Therefore, the calculation of the amount to be extended indefinitely shall be based on the obligations stated in the lease. To ensure sufficient resources to cover the obligations assumed by the county, the calculation of the MOE shall include any contractual increases in the years that they are effective in the lease, instead of a five-year average. Years following the end of the lease shall be the same as the last year of the lease ~~if all obligations are covered.~~

~~Following the adoption of legislation enacting the recommendations of the Task Force, and the completion of MOEs and MOUs as a result of negotiations between the Judicial Council and the counties, each county shall submit expenditure data to the Department of Finance and Judicial Council. The Every county auditor-controller shall review and certify the accuracy and completeness of the submitted maintenance cost data, consistent with legislation and the provisions of SAM and make the calculations described below. The Department of Finance and Judicial Council will review and concur with the proposed MOE, prior to adjusting the amounts in each year for inflation. Should disputes occur regarding the amount of the MOE, the Department of Finance shall act as final arbiter.~~

~~The Department of Finance~~ *Each county shall use the average of the four indices from the US Census Producer Price Index as follows: building, cleaning and maintenance; operating office property; construction maintenance and repair; building, janitorial and custodial for the purposes of this calculation. The Department of Finance Each county shall adjust each of the five years of cost data using the combined index, and then averaged to insure ensure that all cost items are brought up to the value of those items in the year the negotiations are completed.*

The MOE shall not include any expenditure related to a ~~rejected~~ *facility not accepted by the state or the portion of any court facility for which the county retains responsibility. In no event shall the MOE be payable by a county prior to the county and the Judicial Council entering into an MOU with respect to court facilities in that county. The MOU between the Judicial Council and each county shall include the amount of the MOE.*

**\*NOTE:**

~~“‘Alteration’ means any modification of existing space (buildings, structure or other facilities) that change the use as to function, layout, capacity, or quality. Typical alterations include demolition of fixed partitions or initial installment of carpeting and moveable partitions.” (SAM, page 6806 cont.1)~~

~~“‘Betterment’ means any modification that increases the designed level of services or life expectancy of a facility or other state infrastructure (e.g., seismic improvements, upgrades, etc.)” (SAM, page 6806 cont.1)~~

**MOE Elements and Associated Calculations**

Element	Calculation	Additional Conditions
1. Purchase of land and buildings	Not in MOE	
2. Construction and construction services	Not in MOE	
3. Space rental/lease (except storage for court records)	In the MOE at rate specified in lease agreement. The allocation is a permanent element of the MOE.	.
4. Building maintenance and repairs, as defined by the SAM	Five-year average	Defined pursuant to the SAM.
5. <del>Alterations</del> Betterment for change of function, as defined by the SAM	Not in MOE	Defined pursuant to the SAM.
6. Purchase, installation, and maintenance of HVAC equipment	Five-year average	
7. Elevator purchase and maintenance	Five-year average	
8. Landscaping and grounds maintenance services	Five-year average	For mixed use buildings, prorate portion of property equal to portion of court spaces within the overall complex.
9 a. <del>Parking lot maintenance (Maintenance of parking dedicated to courts)</del>	In MOE at five-year average	
9 b. <del>Parking lot maintenance (Maintenance of parking for the-general public parking that may be used by courts)</del>	Not in MOE	Provision for continuing future use shall be included in MOU.
10 a. <i>Maintenance of juror parking (dedicated to courts)</i>	In MOE at five-year average	Use of parking space and the cost of maintenance may be included in the transfer agreement.
10 b. <i>Maintenance of juror parking (general public parking that may be used by courts)</i>	Not in MOE	Provision for continuing future use shall be include in MOU.
11. Depreciation of building	Not in MOE	
12. Insurance on building	Last year of five-year period	In proportion to court spaces, <i>excluding the costs of excess insurance required by bonded indebtedness agreements.</i>
13. Grounds liability insurance	Last year of five-year period	In proportion to court spaces
14. Utility use charges	Consumption average for five years multiplied by last years rate	
15. Maintenance and repair of utilities	Five-year average	
16. <i>Maintenance of exterior lighting and security equipment</i>	Five-year average	

#### **Agenda Item #1d – Language that would address the “double count” issue**

This item was put over until the next meeting when more information is available.

#### **Agenda Item #1e – Principles and issues**

*Strikeouts and italics reflect changes made by the Committee and the Task Force at the October 18/19 meeting.*

##### **Responsibility**

1. The state shall ultimately be fully responsible for all court facilities, including providing facilities for current and future judges and staff.
2. Pursuant to AB 233, responsibility for providing court facilities for new judges and staff associated with those judges shall continue to rest with the state, after July 1, 1996 ~~2001~~.
3. Responsibility for providing court facilities shall remain with *each county* ~~the counties~~ until completion of the negotiations between the *state* and *that county* ~~the counties~~.
4. Responsibilities of parties sharing mixed-use buildings shall be established by agreement.

##### **Fiscal Neutrality**

1. The control of court facilities should transfer to the state without any fiscal gain or loss to either the counties or the state.
2. Responsibility for funding existing debt on facilities shall remain with ~~the counties~~ *each county* until the debt is retired, either directly or by transferring the revenue stream and debt to the state.
3. If title transfers, it shall do so without payment for capitalized value of buildings and the land associated with those buildings. Determination of appraised value shall not be necessary as a condition of transfer.
4. Existing non-Rule 810 facility operations and maintenance costs, *as defined in supporting documents produced by the Task Force on Court Facilities*, shall continue to be funded by ~~the counties~~ *each county* through a maintenance of effort (MOE) agreement. ~~The MOE will be determined based on a calculation of the average of the most recent five fiscal years of non Rule 810 allowable costs related to facilities. Additionally, the amounts for each year shall be escalated to current dollars to the effective date of the negotiated transfer agreement between the Judicial Council and the counties, using the consumer or producer price indices for each year (or combination thereof), and averaging the resulting amounts, unless determined otherwise. Prior to \_\_\_\_\_ (date) each county shall submit to the Department of Finance data regarding non 810 facility costs from the most recent three five fiscal years. Prior to being submitted to the Department of Finance, all data shall be certified by the county auditor.~~ An MOE shall establish each county’s annual financial obligation to the state with respect to court facilities. The MOE shall be determined by calculating the cost of facility maintenance items as outlined below. Items that have relatively stable costs are averaged over five years and adjusted to account for inflation to the date of transfer. Other costs such as lease payments are calculated differently to recognize the unique nature of the expenditure.

The “five year average” means the average, adjusted to account for inflation to the date of transfer, of the following fiscal years: 1995-1996, 1996-1997, 1997-1998, 1998-1999, and 1999-2000. Costs shall be based upon actual county expenditures for those items listed. Exclusions include land, buildings, capital expenditures, ~~major alterations~~ *betterment or remodeling (as defined by SAM)* that change the function of the building, ~~not maintenance~~, as well as parking provided in separate structures not dedicated solely to court use.

“Repair and maintenance projects” are included in the MOE and are defined in the SAM “as those projects that “continue the usability of a facility as its designed level of services.” “Maintenance” includes any deferred maintenance. Any non-maintenance *project* (i.e., capital project), including betterment or alteration, as defined in the SAM, is not included in the MOE.

Lease payments ~~are~~ *shall be* included in the calculation of the MOE. The goal is to transfer resources that currently provide for a facility. Therefore, the calculation of the amount to be extended indefinitely shall be based on the obligations stated in the lease. To ensure sufficient resources to cover the obligations assumed by the county, the calculation of the MOE shall include any contractual increases in the years that they are effective in the lease, instead of a five-year average. Years following the end of the lease shall be the same as the last year of the lease ~~if all obligations are covered~~.

Following the adoption of legislation enacting the recommendations of the Task Force, and the completion of MOEs and MOUs as a result of negotiations between the Judicial Council and the counties, each county shall submit expenditure data to the Department of Finance and Judicial Council. The county auditor-controller shall review and certify the accuracy and completeness of the submitted maintenance cost data, consistent with legislation and the provisions of SAM *and make the calculations described below*. The Department of Finance and Judicial Council will review and concur with the proposed MOE. ~~prior to adjusting the amounts in each year for inflation.~~

~~The Department of Finance~~ Each county shall use the *average of the four indices* from the US Census Producer Price Index as follows: building, cleaning and maintenance; operating office property; construction maintenance and repair; building, janitorial and custodial for the purposes of this calculation. ~~The Department of Finance~~ Each county shall adjust each of the five years of cost data using the combined index, and then averaged to ~~insure~~ ensure that all cost items are brought up to the value of those items in the year the negotiations are completed.

The MOE shall not include any expenditure related to a ~~rejected~~ facility *not accepted by the state* or the portion of any court facility for which the county retains responsibility. In no event shall the MOE be payable by a county prior to the county and the Judicial Council entering into an MOU with respect to court facilities in that county. *The MOU between the state and each county shall include the amount of the MOE.*

5. Revenue generated by the Courthouse Construction fees will transfer from ~~the counties~~ *each county* to the state, less any funds obligated to debt service, to the extent that such debt remains with ~~the counties~~ *that county*. Should the debt transfer to the state, the corollary debt service stream shall also transfer to the state. *See #12 under Implementation Issues for more discussion on this issue.*

#### **Transfer Principles**

1. ~~All counties shall participate in the transfer of the responsibility for court facilities from the counties to the Judicial Council~~ *state, subject to the MOU between the Judicial Council and each county.*
2. The Judicial Council ~~will~~ shall represent the state in negotiations with counties regarding the transfer of facilities responsibility from the counties to the state.
3. The negotiations with each county shall be concluded with a memorandum of understanding (MOU) specifying the rights and obligations of the state and county, relative to the transferred property as well as any conditions or procedures that were mutually agreed to for the on-going administration of the property.
4. Upon completion of the MOU, the Judicial Council shall have the ongoing responsibility for providing court facilities in that county, *pursuant to the terms of the MOU*. In carrying out this responsibility, the Judicial Council will comply with all state laws and regulations governing the state's capital outlay and support budgets. Capital outlay projects included in the Governor's budget will be executed under the oversight of the Public Works Board or other administrative body established by law for this purpose.
5. It is critical to expedite the transfer of responsibility for court facilities to the *state*.
6. The ~~Judicial Council~~ *state* shall not hold the counties liable for deferred maintenance that existed at the time responsibility for facilities is transferred and for which no funds were committed to address that maintenance.
7. Issues regarding occupancy and use of space within a mixed-use building shall be agreed upon by the Judicial Council and the counties and shall be spelled out in an MOU.
8. ~~The Judicial Council may reject the transfer of unsuitable buildings, in which case the county will continue to be responsible for providing the court with suitable and necessary space. A building that is "unsuitable for court use" is defined as any building with significant health, safety or seismic deficiencies. All other single use court facilities shall transfer to the state, unless mutually agreed to by all parties. Counties may appeal rejection of an unsuitable building by the state to the State Public Works Board. The "burden of proof" to demonstrate the justification for which the facility was rejected lies with the state. In the event that a building is rejected due to significant deficiencies, the county shall have the option of correcting the significant deficiencies prior to transfer, or furnishing the state a sum of money equal to the cost of the remedy. The state may use county's contribution for renovation or replacement of the facility. Should correction of the significant deficiencies be determined as unfeasible, the county shall be obligated as follows:~~
  - ~~To provide suitable court facilities under the current law, or~~

- ~~To provide to the state an amount of money equal to the cost of replacement of the facility with a suitable facility of equivalent amount of space."~~

8. In connection with its recommendation that *the* state shall be ultimately responsible for court facilities, the Task Force recommends that *responsibility for* all existing court facilities currently being used for court functions be transferred to the state, except for facilities satisfying the criteria, *below for* rejection as "unsuitable" as defined hereinafter.

The state may reject a court facility as unsuitable only if an imminent threat or reasonably imminent threat to the life, health or safety of the public or persons occupying the facility exists, including seismically hazardous conditions comprising either an "imminent risk" (level VII), ~~or~~ "extensive but not imminent risk" (level VI), *or* "substantial risk" (level V)\* or significant functional deficiencies, *which in their totality are significant are* present. ~~"Significant functional deficiencies" shall be defined as those comprising a totality of conditions that render the facility unsuitable for continued short or long term use for its currently intended court functions, even for the short term.~~

A licensed structural engineer utilizing criteria established by the Department of General Services Real Estate Services Division ~~will~~ *shall* evaluate any buildings built ~~after~~ *prior to* \_\_\_\_ (date), unless previously upgraded, for seismic risk. These seismic evaluations ~~will~~ *shall* be funded by the state and completed prior to ~~beginning~~ *completion of the negotiations between the Judicial Council and each county* on the disposition of affected buildings.

*A county* ~~Counties~~ may appeal rejection of an unsuitable building to the State Public Works Board. In the case of an appeal, the state shall have the burden of proof to justify the rejection of a court facility. If a facility is rejected, ~~the~~ *a* county shall be responsible for providing necessary and suitable court facilities, as required by Government Code Section 68073 as that section read on July 1, 2000. ~~for one of the following, at the state's election:~~

9. Historically significant facilities, may or may not transfer, but must be made available to the ~~Judicial Council~~ *state* for court use or the county can, *with the agreement of the local court*, opt to provide suitable and adequate court facilities in an alternative facility. Facilities considered "historic" shall either be registered on the ~~state's~~ *state or federal* historic register (pursuant to Health and Safety Code 18950 and Federal Code section ) or be eligible for inclusion on ~~the~~ *either* register.

### Implementation Issues

1. Negotiations between the Judicial Council and ~~the counties~~ *each county* regarding the transfer of *responsibility for* court facilities must be complete within three years after legislation implementing the Task Force's recommendations becomes effective.
2. The Judicial Council, in consultation with the local courts, and the counties ~~will~~ *shall* negotiate on a county-by-county and building-by-building basis in order to determine the most optimal way to provide court facilities in ~~that~~ *each* county.
3. The state Public Works Board ~~will~~ *shall* be the final arbiter in any disputes between the Judicial Council and a county ~~counties~~ during the ~~building by building~~ negotiations.
4. ~~All counties shall participate in the transfer of responsibility for court facilities from the counties to the Judicial Council state.~~
5. Both the county and the Judicial Council ~~are~~ *shall be* entitled to equity in court facilities, based on the respective proportional use of areas by the courts and by non-court county functions, at the time that the MOU is determined, regardless of which entity holds title to the facility.
6. Any county funds or property that have been allocated, approved, appropriated, or committed for a court facility project by a county board of supervisors, by resolution or ordinance, shall remain committed to that project.
7. The Judicial Council reserves the right to require a county to complete a project in the design or construction phase prior to its transfer to the state.
8. The Judicial Council ~~can~~ *may* negotiate design changes related to a court facility project with the county to the degree that the design changes do not increase the cost of the project to the county.



9. ~~The Judicial Council~~ *state* reserves the right to dispose of surplus property when title for the property transfers to the state. Prior to disposing of *any court facilities facility that were* ~~the responsibility of the counties~~ *a county*, the state shall comply with the requirements of Government Code section 11010.5 et seq
10. Prior to the state making a decision to sell, lease or otherwise dispose of a court facility transferred from a county to the state, it shall consult and discuss the potential sale, lease or disposition with the affected county. The state shall also consider whether the potential new or planned use of the facility:
  - Is compatible the use of other adjacent public buildings.
  - Would unreasonably depart from the historic or local character of the surround property or local community.
  - Would have a negative impact on the local community.
  - Will unreasonably interfere with other governmental agencies that use or are located in or adjacent to the court facility.

Additionally, the state shall consider whether the decision to cease using the facility or site outweighs a public good in maintaining it as a court facility or site.
12. In perpetuity, the counties shall transfer 75% of the unencumbered revenue generated by the Courthouse Construction fee to the *state* for allocation by the Judicial Council. The remaining 25% will be retained by the *local* court and allocated pursuant to policies and procedures adopted by the Judicial Council and state law.

#### **Principles for negotiation involving mixed-use buildings**

1. Responsibility for court facilities ~~can may~~ be accomplished by the state either holding fee title or entering into a lease agreement with a county or a private landlord or any other mutually-agreed to mechanism.
2. ~~The Each~~ county and the Judicial Council ~~each shall~~ have equity rights to the space occupied by the county and the *local* court, respectively, regardless of which party holds title.
3. Neither the ~~state~~ Judicial Council nor the county shall charge each other rent for space that the county or the courts occupies at the time the MOU is determined. Costs associated with additional space will be paid by the agency desiring more space.
4. In the case of mixed-use buildings, the state and the county shall be responsible for the operations and maintenance costs associated with their proportional shares of the building, and the county shall also be responsible for furnishing its payments to the state for operations and maintenance ~~costs~~ under the terms of ~~the~~ its MOE for the court's share of the building, unless otherwise mutually agreed by the parties.
5. The sale of property is permissible, regardless of which party holds title; however, neither party ~~can shall~~ be displaced or forced to move ~~at its expense~~ unless either party occupies 80% or more of a mixed-use facility. In such a case, the party occupying 80% or more shall be permitted to require that the minority occupant vacate the premises, should the majority occupant so desire. *However, the majority occupant shall compensate the minority occupant for relocation costs and equity at a fair market rate.*
6. ~~The cost of relocating from occupied space to new space will shall be borne by the agency desiring the new space. However, the departing party shall retain its equity interest in the vacated space.~~
7. The use of any space occupied by the county or the Judicial Council ~~must shall~~ be compatible with the facility and not substantially deteriorate or diminish the ability of either the county or the Judicial Council to use the remaining spaces effectively.
8. Should either party require additional space and wish to "buy out" the current tenant from its space, compensation will be made at the current market rate.
9. ~~Should unless either party occupy 80% or more of a mixed use facility, that party shall be permitted to require that the minority occupant vacate the premises, should the majority occupant so desire.~~

#### **Agenda Item #2 - Phase 5 report review**

The Committee requested numerous changes to the report which will be made by the consultants prior to the next meeting of the Task Force.